

Remarks/Arguments

The Examiner indicates dependent claim 2, and claims 7-10 and 13 to be allowable.

Claim 1 is above cancelled and its content is recited now in claim 2 as above amended and rewritten in independent form. The dependencies of those claims heretofore dependent on claim 1 are above changed to claim 2. Claims 7-10 and 13 are presented above as past amended, i.e., in their allowable form.

The rejection of independent claim 11 is respectfully submitted as being in error, particularly in that the content of the claim has not been fully addressed by the Examiner. A withdrawal of the finality of the rejection is accordingly believed to be in order and is requested should the Examiner not see the allowability of the claim.

Claim 11 stands rejected under Section 103 as being unpatentable over Kolton et al. Patent No. 6,342,838 in view of Feibelman Patent No. 6,433,686. In the reasoning underlying the rejection, the Examiner advises as follows:

Regarding claims 11-12, refer to claims 1 and 5-6 above.

In the reasoning underlying those rejections, the Examiner advises as follows:

...Kolton et al. disclose an EAS marker assembly (44) comprising a housing (36) defining an interior cavity (42) and an EAS marker (30) contained therein, the housing (36) defining first and second tabs (38, 40)

extending outwardly of first and second different sides of the housing (figures 5-6; col. 2, lines 38-46). Kolton et al. fail to disclose the first and second tabs being defined an aperture extending therethrough. Feibelman teaches an anti-theft tag (10) having a first member (16) being defined first and second tabs (18, 30) extending outwardly of first and second different sides of the first member, wherein each of the first and second tabs defining an aperture (19) extending therethrough (figures 3-4; col. 13-51). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the first and second tabs, each having the aperture as taught by Feibelman in the system as disclosed by Kolton et al. for the purpose of attaching/stabilizing the housing onto a protected garment.

Claim 11 reads as follows:

11. An EAS marker assembly comprising a housing defining an interior cavity and an EAS marker contained in said housing interior cavity, said housing defining first and second tabs extending outwardly of first and second different sides of said housing, each of said first and second tabs defining an aperture extending therethrough and a locking device secured with said first tab. (emphasis added)

Applicants advise as follows in this respect in the

Specification (Page 7):

Housing member 56a is configured as housing member 10b of Figs. 1-4, i.e., having a first part defining a compartment, which is configured in dimensions to overly the EAS marker. Housing member 56a differs from housing member 10b in having locking device 58 formed integrally with one of tabs 60 and 62, e.g., tab 62. Tabs 60 and 62 have respective apertures 64 and 66 extending therethrough, aperture 66 also extending through locking device 58.

EAS marker housing 56 has the advantage of needing only a joinder device, i.e., in providing a two-piece unit rather than the three-piece arrangement of Figs. 7-9.

The recitation "secured with said first tab" is not addressed in the Examiner's reasoning underlying the rejection of claim

11. Such provision of a locking device secure with one of the tabs is manifestly not taught in either of the applied prior art references.

Reconsideration of claim 11 is submitted as in order in the face of the final rejection in that the matter does not raise new issues or requiring further searching. Reconsideration is sought of the claim only as heretofore presented.

Accordingly, it is submitted that the Section 103 rejection of claim 11 is without merit and that claim 11 is patentable. Claim 12 is submitted as patentable as being dependent on claim 11.

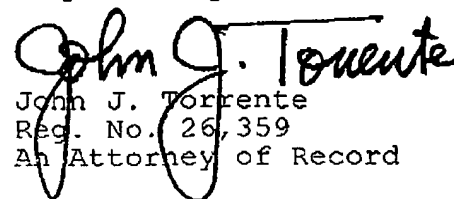
Patentability of all claims is believed to have been established and, as such, it is submitted that this application is now in condition for allowance. Indication to that effect is solicited.

Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone undersigned counsel for applicant at (212) 790-9273.

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Respectfully submitted,


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